

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

GIOVANNI MCDOWELL,

Plaintiff,

v.

STEVE SMITH, et al.,

Defendants.

Case No. 1:24-cv-00500 JLT SAB (PC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
THE RETALIATION CLAIM**

(Doc. 17)

Giovanni McDowell, a state prisoner, asserts the defendants are liable for violations of his civil rights while he was incarcerated at Sierra Conservation Center. (*See generally* Doc. 13.) The magistrate judge screened Plaintiff's amended complaint pursuant to 28 U.S.C. § 1915A(a), and found Plaintiff stated a cognizable claim for deliberate indifference to his safety against Defendants Smith, Storey, Davis, and Cobian. (Doc. 17 at 3-4.) However, the magistrate judge found Plaintiff did not state a cognizable claim for retaliation. (*Id.* at 4-5.) The magistrate judge determined further leave to amend would be futile, because the Court previously provided Plaintiff with the applicable legal standards, and he failed to cure the deficiencies related to his retaliation claim. (*Id.* at 5.) Therefore, the magistrate judge recommended the action proceed only on the deliberate indifference to safety claim and the retaliation claim be dismissed. (*Id.*)

The Court served the Findings and Recommendations on Plaintiff and notified him that any objections were due within 14 days. (Doc. 17 at 6.) The Court advised Plaintiff the "failure

1 to file objections within the specified time may result in the waiver rights on appeal.” (*Id.*,
2 quoting *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).) Plaintiff did not file
3 objections, and the time to do so has passed.

4 According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case.
5 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations
6 are supported by the record and proper analysis. Thus, the Court **ORDERS**:

- 7 1. The Findings and Recommendations issued on August 7, 2024 (Doc. 17) are
8 **ADOPTED** in full.
- 9 2. Plaintiff’s retaliation claim is **DISMISSED**.
- 10 3. This action **SHALL** proceed only as to Plaintiff’s claim for deliberate indifference
11 to safety against Defendants Smith, Storey, Davis, and Cobian.
- 12 4. This action is referred to the magistrate judge for further proceedings.

13
14 IT IS SO ORDERED.

15 Dated: **September 4, 2024**


UNITED STATES DISTRICT JUDGE